

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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COMPLAINT OF RANDALL EHRLICH

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Docket No. C2020-1

**UNITED STATES POSTAL SERVICE MOTION TO DISMISS WITH PREJUDICE  
THE COMPLAINT OF RANDALL EHRLICH AND STAY DEADLINES**  
(May 22, 2020)

The United States Postal Service (“Postal Service”) moves to dismiss with prejudice the complaint of Randall Ehrlich (“Complainant”) that is currently before the Postal Regulatory Commission (“Commission”). Because the Postal Service has permanently restored residential mail delivery to Complainant’s front porch mailbox as of today’s date, Complainant is now receiving the relief the Commission has the authority to grant. As a result, the underlying dispute has been resolved, rendering the issues in this matter moot.

The Postal Service also requests that the Commission stay all deadlines, including those for discovery, in this proceeding pending its ruling on the instant motion.

**ARGUMENT**

**THE POSTAL SERVICE HAS ALREADY PROVIDED THE REMEDY THE  
COMMISSION MIGHT GRANT.**

Mootness exists “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.”<sup>1</sup> Mootness also occurs when “events have so transpired that [a judicial] decision will neither presently affect the parties’ rights

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<sup>1</sup> *Powell v. McCormack*, 395 U.S. 486, 496 (1969); *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979); *Cameron-Grant v. Maxim Healthcare Services, Inc.*, 347 F.3d 1240, 1245 (11<sup>th</sup> Cir. 2003).

nor have a more than speculative chance of affecting them in the future.”<sup>2</sup> Mootness can arise at any point during litigation.<sup>3</sup> When mootness occurs, the case should be dismissed with prejudice.

The Commission has dismissed prior complaints or counts within complaints when subsequent events result in actions consistent with the relief sought by Complainants. For instance, in Docket No. C2011-5, the Commission dismissed a complaint on grounds that “the issue raised and relief sought by Complainant regarding restoration of mail service have been rendered moot”.<sup>4</sup> The underlying controversy in that proceeding involved a complainant who sought resumption of mail delivery to his home. As delivery to that address resumed during the pendency of the case, the Commission had no remedy left to grant the complainant. As a result, the Commission dismissed the complaint as moot.<sup>5</sup> Similarly, in Docket No. C2011-3, the Complainants claimed that the Postal Service had undertaken a change in the nature of postal services without seeking an advisory opinion from the Commission, in violation of 39 U.S.C. § 3661(b).<sup>6</sup> However, the Commission ruled that the Postal Service’s subsequent decision to file a request with the Commission seeking such an opinion made that part of the Complaint moot: “This action [by the Postal Service] is consistent

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<sup>2</sup> *Ralls Corp. v. Committee on Foreign Inv. in U.S.*, 758 F.3d 296, 321 (D.C. Cir. 2014) (citing *Clarke v. United States*, 915 F.2d 699, 701 (D.C.Cir.1990)).

<sup>3</sup> *Steffel v. Thompson*, 415 U.S. 452, 459, n.10 (1974).

<sup>4</sup> Order No. 1392, Order Dismissing Complaint, Docket No. C2011-5, *Complaint of Ramon Lopez* (July 3, 2012), at 5.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> Order No. 797, Order Dismissing Complaint, Docket No. C2011-3, *Complaint of the National Association of Postmasters of the United States, et al.*, (August 11, 2011), at 2.

with the relief sought by Complainants. Therefore, claim 3 of the Complaint is dismissed as moot.”<sup>7</sup>

In this current proceeding, Complainant asserts that the Postal Service has refused to deliver mail to his residence and seeks to have mail delivery re-established. The Postal Service’s recent actions have fulfilled Complainant’s request for relief and effectively rendered the instant Complaint moot.

The record indicates that Postal Service officials carefully evaluated Complainant’s circumstances, as well as the letter carrier’s safety concerns, when deciding to suspend mail delivery service and issue and maintain a dog hold. However, given the passage of time, the Postal Service has since decided to assess the presence of any current safety hazards at Complainant’s residence to determine if mail delivery service could be safely restored to Complainant’s front porch mailbox. As noted in the Postal Service’s recently filed Opposition to Complainant’s Motion to Expand Issues,<sup>8</sup> on April 29, 2020, management at the Postal Service’s Ballard Carrier Annex (“BCA”) notified Complainant that mail delivery service to his front porch mailbox was being restored pending the outcome of a two-week safety investigation.<sup>9</sup> The letter included a Form PS 3575, *Official Mail Forwarding Change of Address Order* (“COA”), to be completed and returned, or notice provided that an online COA was completed, within seven (7) days of the letter’s date. Although Complainant did not complete and return a COA or provide notice to BCA management that he had completed an online COA, the

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<sup>7</sup> *Id.* at 7.

<sup>8</sup> United States Postal Service’s Opposition to Complainant’s Motion to Expand Issues, May 20, 2020.

<sup>9</sup> *Id.*, Exhibit 1.

Postal Service notified Complainant by letter dated May 7, 2020,<sup>10</sup> that a BCA management official would deliver Occupant/Marketing Mail addressed to Complainant's address, 5833 7<sup>th</sup> Avenue NW, Seattle, WA 98107-9998, beginning on May 8. The letter also notified Complainant that mail delivery service would be restored to his front porch mailbox for fourteen (14) days to assess the presence of any current safety hazards that might pose a threat to letter carriers' safety.<sup>11</sup>

For two weeks, Manager, Customer Services, On Bong Wong, delivered mail to Complainant's front porch mailbox, checked for outgoing mail, and documented his observations of any safety hazards present at Complainant's address.<sup>12</sup> On May 21, 2020, Mr. Wong completed the two-week delivery/safety investigation and did not observe any safety hazards while delivering mail to Complainant's residence. Accordingly, on today's date, May 22, 2020, the Postal Service sent a letter to Complainant, through his counsel, Adam Karp, notifying him that it has removed the dog hold and permanently restored residential delivery to his front porch mailbox.<sup>13</sup>

Based on the above-described actions, the Postal Service has provided Complainant the relief he is seeking and which the Commission has the authority to grant: restoration of residential mail delivery to his front porch mailbox.<sup>14</sup> Therefore, for the foregoing reasons, and consistent with the Commission's rulings in Docket Nos.

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<sup>10</sup> *Id.* The May 7 letter reiterated information regarding the COA and actions Complainant could take, at his election, to have all of his mail delivered to his residential address.

<sup>11</sup> *Id.*

<sup>12</sup> Mr. Wong also wrote to Complainant, noting the need for Complainant to trim back hedges near his front porch to provide a clear path for the letter carrier when delivering mail to his mailbox.

<sup>13</sup> Letter dated May 22, 2020, attached hereto as Exhibit 1. This letter has also been emailed to the Presiding Officer in this proceeding.

<sup>14</sup> Complaint of Randall Ehrlich, December 23, 2019 ("Complaint"), at p. 14 Paragraph VI.A.

C2011-5 and C2011-3 noted above, the issues raised in this Complaint are now moot or insufficient as a matter of law and the Complaint should be dismissed with prejudice.

The Postal Service has taken the necessary actions to fully resolve this matter. Even assuming *arguendo* that a violation of 39 U.S.C. § 403(c) occurred as Complainant has alleged, with residential mail delivery now permanently restored, Complainant has received the only practical relief the Commission has the authority to grant. A decision by the Commission or the Presiding Officer as to whether the Postal Service acted inconsistently with 39 U.S.C. § 403(c) in the past would be unnecessary.

### **CONCLUSION**

For the reasons set forth above, the Commission should dismiss the instant Complaint with prejudice. Additionally, the Postal Service requests that the Commission stay all deadlines, including those for discovery, in this proceeding pending its ruling on the instant motion.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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May 22, 2020

EXHIBIT 1 TO THE UNITED STATES POSTAL SERVICE MOTION TO  
DISMISS WITH PREJUDICE THE COMPLAINT OF RANDALL EHRLICH AND  
STAY DEADLINES



**c/o Adam P. Karp, Esq., via email: [adam@animal-lawyer.com](mailto:adam@animal-lawyer.com)**

May 22, 2020

Mr. Randall Ehrlich  
5833 7<sup>th</sup> Avenue NW  
Seattle, WA 98107-9998

Re: Completion of Safety Investigation and Notification of Permanent  
Restoration of Mail Delivery Service

Dear Mr. Ehrlich:

This letter follows up on my letter dated May 7, 2020, wherein I notified you that mail delivery service was being restored to your residential address, 5833 7<sup>th</sup> Avenue NW, Seattle, WA 98107-9998, pending the outcome of a safety investigation. I am pleased to report that, after completing the two-week safety investigation yesterday, May 21, I did not observe any safety hazards that would impede the letter carrier from delivering mail to your front porch mailbox. Specifically, I did not encounter any threatening behavior from any animal(s) at your delivery address. Accordingly, as of today's date, the Postal Service is lifting the dog hold and permanently restoring mail delivery service to the front porch mailbox at your residence.

If you would like to have all of your mail delivered to your residential address, please complete and return to me, at the address in the footer below, the attached PS Form 3575, *Official Mail Forwarding Change of Address (COA) Order*, or notify me that you have completed an Online COA Order. You would also need to notify mailers of your residential address if your mail is addressed to a receptacle other than a PO Box™ at a Post Office™, such as a private mailbox or receptacle owned or operated by a Commercial Mail Receiving Agency.

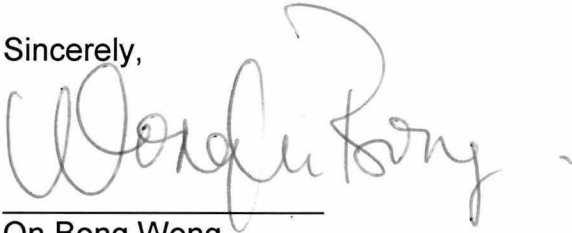
As I noted in my letter dated April 29, 2020, if any new safety hazards are subsequently alleged or threatening behavior from any animal(s) at the delivery address is reported, a temporary dog hold will issue for the delivery address until management investigates to determine if a safety hazard or a good faith basis exists to discontinue mail delivery service. However, I am hopeful that no such issues will occur at your address in the future.

The Postal Service strives to provide excellent service to all of its customers and is pleased that mail delivery service has been permanently restored to your



residence. Thank you in advance for your cooperation as our employees endeavor to safely and efficiently deliver your mail. Please feel free to contact me directly at (206) 781-0148 should you have any questions or need to discuss further.

Sincerely,

A handwritten signature in cursive script, appearing to read "On Bong Wong". The signature is written in dark ink and is positioned above a horizontal line.

On Bong Wong  
Manager, Customer Services

Attachment

cc: Anthony F. Alverno  
Chief Counsel, Global Business and Service Development  
United States Postal Service

Adam P. Karp, Esq.  
Attorney for Randall Ehrlich